

Opinion No. 53-5784

July 15, 1953

BY: RICHARD H. ROBINSON, Attorney General

TO: Honorable J. C. Enloe District Attorney Seventh Judicial District Socorro, New Mexico

{*187} This is in reply to your request for an opinion from this office upon the question of whether the Board of County Commissioners of Catron County, New Mexico, may acquire a hospital now in existence, by a lease and by reason of such acquisition, come within the provisions of Laws 1947, Chapter 148, Section 1; Section 15-5001 N.M.S.A., 1941 Compilation, as amended.

You state in your letter that the right of the County Commissioners to enjoy the provisions of the above cited law depends upon what the word "purchase" appearing in Section 15-5001 includes. We agree with this statement. We quote this section as follows:

"All counties shall have the power to construct, purchase, own, maintain and operate hospitals, including isolation wards, and to purchase the necessary land therefor."

It is the opinion of this office that the word "purchase" does not include or intend to allow a lease of property. A purchase of property involves a "transfer of ownership and a passing of title." **Smull vs. Delaney, 25 N.Y.S. 2d 387, 175, Misc. 795; Anderson vs. Badger, 191 P. 2d 768, 84 Cal. App. 2d 736.**

The estate that the county would acquire by lease would not be sufficient to support the title contemplated by Section 15-5001, et seq., N.M.S.A., 1941 Comp., as amended, and for such rights and privileges conveyed by the statute.

The 1953 Legislature amended Section 15-5012, N.M.S.A., 1941 Compilation, merely to provide for a set assessment for such purposes and an additional procedure for sums in excess of that stated, and is therefore {*188} not applicable to the problem which you have presented.

We trust that this is of some assistance to you in this matter.

By: William J. Torrington

Assist. Attorney General